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[HISTORY: Adopted by the Town Board of the Town of Elma 4-27-1955; amended in its entirety 7-19-1989 by L.L. No. 1-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 29.

Building construction — See Ch. 52.

Flood damage prevention — See Ch. 82.

Mobile home parks — See Ch. 97.

Acreage lot development — See Ch. 100.

Sewers — See Ch. 115.

Site plan review — See Ch. 117.

Stormwater management — See Ch. 120.

Water — See Ch. 140.

Zoning — See Ch. 144.

ARTICLE I
Authority for Subdivision Control
[Amended 6-14-2017 by L.L. No. 3-2017]

§ 123-1. Authorization of subdivision plat approval.

- A. By authority of Town Law § 276, the Town Board of the Town of Elma authorizes the Planning Board of the Town of Elma to review each plat for land subdivision within the Town and to recommend to the Town Board approval, approval with modifications, or disapproval in accordance with the procedures and standards herein after stated.
- B. This comprehensive amendment of the previously adopted land subdivision regulations allows the Planning Board, in part the authority to recommend approval, approval with modifications or disapproval of subdivision plats within the Town of Elma and to permit the assumption of all other powers and duties related thereto as prescribed by Town Law, Chapter 62 of the Consolidated Laws of the State of New York, with final approval resting with the Town Board. All subdivision plats hereinafter submitted to the Planning Board for approval shall be governed by and subject to the provisions of these amended regulations.
- C. In accordance with Article 9 of the Real Property Law, this amendment provides for endorsement of the approved subdivision plat by the Town Board prior to filing with the County Clerk.

ARTICLE II
Declaration of Policy
[Amended 7-10-1996 by L.L. No. 1-1996; 6-14-2017 by L.L. No. 3-2017]

§ 123-2. Declaration; objectives.

It is declared to be the policy of the Town of Elma Planning Board to consider land subdivision plats as part of a plan for the orderly, economic and efficient future growth and development of the Town. The following objectives may guide the Planning Board's decisions as related to the public health, safety and welfare:

A. Guidelines.

- (1) Lands to be subdivided and developed shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- (2) Proper provisions shall be made for water supply, drainage, sewerage and other needed improvements and utilities.
- (3) All proposed development must be so designed as to be in harmony with the development pattern of adjacent properties.
- (4) Proposed streets shall compose a convenient system and shall be of such width, grade and location as to accommodate present and prospective traffic.
- (5) All development shall be designed to facilitate adequate fire and emergency protection and provide access for firefighting and related equipment.
- (6) Proper provisions may be made for permanent reservations of open spaces for parks and playgrounds and for the protection of natural drainage and significant historical and environmental features.
- (7) Future development may bear a fair share of the capital costs to the Town for municipal improvements servicing such new development.
- (8) Subdivision design should include referencing the information and direction provided in the Town's adopted Comprehensive Plan (the Regional Comprehensive Plan - RCP and/or the most recent Plan).

B. Requirements.

- (1) In areas of the Town not having sewers, all lots proposed in a subdivision must have a percolation rate (done in accordance with New York State and Erie County Health Department standards) at a minimum of one inch in 30 minutes or better.
- (2) No septic systems in fill are allowed.
- (3) Subdivisions are only allowed in the Residential A or Residential B zoning districts. Minor subdivisions may be allowed in the Residential C zoning district upon recommendation from the Planning Board and approval of the Town Board.
- (4) No more than 30 residences are allowed per farm plot except where public sewers are available.

ARTICLE III
Word Usage and Definitions
[Amended 4-15-2015 by L.L. No. 2-2015; 6-14-2017 by L.L. No. 3-2017]

§ 123-3. Word usage.

- A. Words used in the present tense include the future.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
- C. The word "shall" is always mandatory. The word "may" is permissive.
- D. A "building" or "structure" includes any part thereof. "Building or other structure" includes all other structures of every description, regardless of dissimilarity to conventional building forms.
- E. The phrase "used for" includes the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- F. The word "person" includes a partnership or corporation as well as an individual.
- G. The word "lot" includes the word "plot" or "parcel."
- H. The word "plat" means map or chart.

§ 123-4. Definitions.

For the purpose of these regulations, certain words and terms used herein are defined as follows:

CLERK OF THE PLANNING BOARD — That member of the Planning Board who shall be designated to perform the duties of the Clerk of the Planning Board for the purposes of these regulations.

COLLECTOR STREET — A street which carries traffic from local streets to the major system of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.

CUL-DE-SAC STREET — A street with only one means of vehicular ingress and egress and with a turnaround at its terminus.

DESIGNATED TOWN ENGINEER — That licensed professional engineer, either employee or consultant, who shall be chosen by the Town Board to perform the duties of the designated Town Engineer for the purposes of these regulations.

EASEMENT — An acquired right of use on the property of another for a specified purpose on a designated part of that property.

IMPROVEMENT — A physical change to the land or installation of certain services necessary to produce usable and desirable lots, blocks or sites from raw acreage, including, but not limited to, water and sewer, grading, pavement, curbs, gutters, storm sewers and drains and betterments to existing watercourses, sidewalks, street signs, shade trees, sodding or seeding and monuments.

LOCAL STREET — A street intended to serve primarily as access to abutting properties.

MAJOR ARTERY — An arterial street which serves or is designated to be used primarily for fast or heavy traffic.

MARGINAL ACCESS STREET — A local street which is parallel to and adjacent to a major artery and which provides access to abutting properties and protection from through traffic.

MASTER PLAN — A comprehensive plan for the general physical development of the Town of Elma, prepared by the Planning Board pursuant to Town Law¹ and which includes any unit or part of such plan separately adopted

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and any amendment to such plan or parts thereof.

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OFFICIAL MAP — The map which may be established by the Town Board under § 270 of the Town Law showing streets, highways and parks and drainage theretofore laid out, adopted and established by law, and any amendments thereto adopted by the Town Board of additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

PLANNING BOARD — The Planning Board of the Town of Elma, Erie County, New York.

PRELIMINARY PLAT — The maps, drawings and charts showing the layout of a proposed subdivision, as specified in Article VII, § 123-20, of these regulations submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout and improvements of such proposed subdivision.

SKETCH PLAN — A sketch of a proposed subdivision showing the information specified in Article VII, § 123-19, of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and the objectives of these regulations.

STORMWATER MANAGEMENT OFFICER (SMO) — An employee or officer designated by the Town to accept and review stormwater pollution prevention plans, forward the plans to the applicable employee, officer, or board of the Town of Elma, and inspect stormwater management practices, as provided in Chapter 120, Stormwater Management, of this Code.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities, as more particularly described in Chapter 120, Stormwater Management, of this Code.

STREET — A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, artery, avenue, boulevard, lane, place, drive or however otherwise designated.

STREET PAVEMENT — The exposed surface of the roadway used by vehicular traffic.

STREET WIDTH — The width of the right-of-way or the distance between property lines on the opposite sides of a street, measured at right angles to the center line of such street.

SUBDIVIDER — Any person, firm, corporation, partnership or association which shall lay out for the purpose of development and/or sale of any subdivision as defined herein, either for himself, itself or for others.

SUBDIVISION — The division of any parcel of land into two or more lots, block plots, or sites, with or without new streets or highways, for the purpose of sale, transfer of ownership, or development. It also includes any alteration of lot lines or dimensions of any lots or sites shown a plat previously approved and filed in the office of the County Clerk. The definition of a "subdivision" excludes lots that are over five acres in size. The Town of Elma also further defines a subdivision as a minor or major subdivision as follows:

- A. **MINOR SUBDIVISION** — Any subdivision containing not more than four lots, each of said lots being at least the minimum lot area permitted by the Zoning Ordinance,² each fronting on an existing street, not involving any new street or road or the extension of municipal facilities, not adversely affecting the development of the remainder of the parcel of adjoining properties and not in conflict with any surrounding development or any provision or portion of the Master Plan, Official Map, Zoning Ordinance or these regulations.
- B. **MAJOR SUBDIVISION** — Any subdivision not classified as a minor subdivision, including, but not limited to, subdivisions of five or more lots or any size subdivision requiring any new street or extension of Town facilities.

SUBDIVISION PLAT or FINAL PLAT — The final maps, drawings and charts on which the subdivider's plan

1. Editor's Note: See NY Town § 1 et seq.

2. Editor's Note: See Ch. 144, Zoning.

§ 123-4 of subdivision containing all information or detail required by law and by these regulations is presented to the Planning Board for approval and which, if approved, will be submitted to the Erie County Clerk for filing or recording. § 123-4

SURVEYOR, LAND — A person licensed as a land surveyor in the State of New York.

ARTICLE IV
Approval Procedure
[Amended 4-15-2015 by L.L. No. 2-2015; 6-14-2017 by L.L. No. 3-2017]

§ 123-5. Approval required.

Whenever any subdivision of land is proposed, and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the following procedures.

§ 123-6. Preapplication and classification.

- A. Submission of a sketch plan. Any owner of land shall, prior to subdividing land, submit to the Town Clerk at least 10 days prior to the regular meeting of the Town Board two copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of Article VII, § 123-19, of these regulations for the purposes of classification and preliminary discussion. The Town Board shall discuss the application and supply input to the owner. If the Town Board finds that this application is in general accordance with the Town's regulation, they then will refer it to the Planning Board for their input in accordance with the following.
- B. Discussion of requirements and classification.
 - (1) The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, stormwater management, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.
 - (2) Classification of the sketch plan is to be made at this time by the Planning Board as to whether it is a minor or major subdivision as defined in these regulations. A notation regarding classification shall be made by the Planning Board directly on the sketch plan. The Planning Board may require, however, when it deems necessary for protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in Article IV, § 123-7, of these regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in Article IV, §§ 123-8 and 123-9.
- C. Study of sketch plan. The Planning Board shall, within 30 days after submission, determine whether the sketch plan meets the objectives of these regulations and specific recommendations to be incorporated by the applicant in the next submission to the Planning Board and, in the case of a minor subdivision, obtain a review and recommendation from the Town Highway Superintendent, Water Superintendent and Town Engineer.
- D. Preapplication does not require formal application to the Planning Board or payment of a fee, nor does it permit filing of a plat with the County Clerk.

§ 123-7. Minor subdivision plat.

- A. Application and fee. Within six months of a classification by the Planning Board of a proposed subdivision as a minor subdivision, the subdivider shall submit an application for approval of a minor subdivision plat. The plat shall conform to the layout shown on the sketch plan, plus any recommendations made by the Town Board and Planning Board. Said application shall also conform to the requirements listed in Article VII, § 123-18. All applications for plat approval for a minor subdivision shall be accompanied by a fee as set by the Town Board by resolution from time to time.

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B. Number of copies. The application for approval of a minor subdivision plat, complete with seven copies of the subdivision plat, shall be filed with the Clerk of the Planning Board.

C. Subdivider to attend Planning Board and Town Board meetings. The subdivider, or his duly authorized representative, shall attend meetings of the Planning Board and Town Board to discuss the proposed minor subdivision plat.

D. Approval procedure.

- (1) The minor subdivision application shall be placed on the next available Town Board meeting agenda. (Submission must take place prior to the deadline for the Town Board Agenda.)
- (2) The Town Board shall complete a cursory review of the application (with input from the Building Department) and refer the application to the Planning Board with any comments they have. If warranted, the Town Board could also begin the SEQR process by authorizing a coordinated review.
- (3) The Planning Board, within 62 days of referral of the plan to them, shall act by resolution on the application. In the event the Planning Board does not act within the sixty-two-day period, the application will automatically be placed on the next Town Board agenda.
- (4) The Planning Board shall either recommend approval, conditional approval with or without modifications, or disapproval of the plat. The Planning Board may also provide input on SEQR to the Town Board. The Planning Board shall specify, in writing, its supporting reasons for recommending approval with conditions or disapproval of the minor subdivision.
- (5) The Town Board will receive the recommendation and make a SEQR decision on the minor subdivision. If a SEQR negative declaration is issued, the Town Board can set a public hearing on the application.
- (6) Once the public hearing is scheduled, noticed and held in accordance with Town Law, the Town Board can act on the application; approve, approve with conditions, with or without modifications, or disapprove.

§ 123-8. Major subdivision preliminary plat.

A. Application and fees.

- (1) Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for consideration with a preliminary plat for the proposed subdivision. Such preliminary plat shall be clearly marked "preliminary plat" and shall be in the form prescribed by Article VII, § 123-20, hereof. The preliminary plat shall, in all respects, comply with the requirements of §§ 276 and 277 of the Town Law and as set forth in these regulations, except where a waiver may be specifically authorized by the Town Board.
- (2) Payment of a fee shall accompany all applications for approval of a preliminary plat. Plats for commercial, industrial or multifamily developments shall be accompanied by a fee, with a minimum fee for any subdivision application. All fees will be set by resolution of the Town Board from time to time.³ Fees are not refundable and shall be in addition to fees charged by the Building Inspector or other Town agencies but shall not be duplicated by site plan review fees required under the Zoning Ordinance.⁴

B. Purpose. The preliminary plat and the supporting documents for a proposed subdivision constitute the material to be officially submitted to the Town Board. One copy shall later become the official record of the Town Clerk. They show the layout of the subdivision and its public improvement, so that the Town Board can indicate its approval or disapproval of the subdivision prior to the time that the final plat, including the

3. Editor's Note: The Fees Resolution is on file in the Town Clerk's office and may be inspected during regular business hours.

4. Editor's Note: See Ch. 144, Zoning.

- § 123-8 design and detailing of the public improvements and utilities, is completed. Approval of the preliminary plat does not constitute an approval of the final plat, nor should it be considered a valid basis for the construction of site improvements or other commitments which depend upon its design characteristics. § 123-8
- C. Number of copies. The application for approval of the preliminary plat, complete with seven paper copies of the preliminary plat, shall be filed with the Clerk of the Planning Board. A proposed submission which does not include all the required drawings and documents shall not be considered for such filing.
- D. Subdivider to attend Town Board and Planning Board meetings. The subdivider or their duly authorized representative shall attend the meeting of the Town Board and Planning Board to discuss the preliminary plat.
- E. Approval procedure.
- (1) Upon receipt of the preliminary plat application by the Town Clerk, the application shall be placed on the next available Town Board agenda.
 - (2) At the Town Board meeting, the Town Board shall review the application, provide input to the applicant, and refer the application to the Planning Board for their review, comment, and recommendation.
 - (3) The Town Board may also begin a SEQR coordinated review process by authorizing the mailing of SEQR lead agency documentation to appropriate interested and involved agencies.
 - (4) The application will then be placed on the next available Planning Board meeting agenda.
 - (5) The Planning Board, within 62 days of receipt of the referred action, shall, by resolution, either recommend to approve with or without modifications or recommend to disapprove such preliminary plat. The Planning Board shall also provide input to the Town Board on SEQR.
 - (6) The Town Board, based upon input from the Planning Board and, if requested, other involved and interested agencies, shall act in accordance with the State Environmental Quality Review Act.
 - (7) If the Town Board issues a negative declaration or conditioned negative declaration, then the application shall be considered complete and the Town Board shall schedule and hold a public hearing within 62 days of the complete application.
 - (8) If the Town Board decides that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provision of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plat shall be held within 62 days of filing the notice of completion.
 - (9) Notice of the public hearing shall be advertised at least once in the official newspaper as legally designated by the Elma Town Board at least five days before such hearings. (If an EIS is required, follow SEQR requirements.)
 - (10) Within 62 days from the date of such public hearing, the Town Board shall act by resolution of the preliminary plat. The Town Board shall either approve, with or without modifications, or disapprove the preliminary plat.
 - (a) Notwithstanding the foregoing provisions, the time in which the Town Board must take action may be extended by mutual consent of the owner and the Town Board.
 - (b) When approving the preliminary plat, the Town Board shall state, in writing, the modifications and/or waivers under Article 9 of the Real Property Law that, if any, it deems necessary for submission of the plat in final form with respect to:

§ 123-8

§ 123-9

- [1] The specific changes which it will require in the preliminary plat.
 - [2] The character and extent of the required improvements for which waivers may have been specifically requested and which, in its opinion, may be waived without jeopardy to the public health, safety, and general welfare.
 - [3] The categories of improvement or the amount of all bonds therefor, which the Town Board shall require as a requisite to approval of the final plat.
- (c) The action of the Town Board, plus any conditions attached thereto, shall be noted on three copies of the preliminary plat. One copy shall be returned to the subdivider, one copy shall be retained by the Planning Board and one forwarded to the Town Board through the Town Clerk for preliminary approval, disapproval, or modification.

§ 123-9. Major subdivision final plat.

A. Application.

- (1) Following approval, with or without modifications, of the preliminary plat, the subdivider shall prepare a final plat, together with all other supplementary documents, in accordance with Article VII, § 123-21, of these regulations.
- (2) The final plat and other supplementary documents shall be filed with the Clerk of the Town Board, together with a written application for final approval, within six months after approval, with or without modification, of the preliminary plat, unless such time limit is extended by mutual consent of the applicant and the Town Board.
- (3) Town Board action.
 - (a) Within 62 days from the date of such public hearing or from the date of submission of the final plat, if no such hearing is held, the Town Board, by resolution, shall either approve, conditionally approve, with or without modification, or disapprove the final plat and authorize the signing of such plat.
 - (b) If an SWPPP was submitted in accordance with § 123-21B(5) of these regulations, the Town Board shall not approve the final plat unless the plat and SWPPP comply with the requirements of Chapter 120 of this Code.

B. Partial development. If desired by the subdivider, the final plat may consist only of that portion of the approved preliminary plat which is proposed for recording and development at the time, provided that such portion conforms to all applicable requirements of these regulations and that the subdivision is being submitted for approval progressively in contiguous sections satisfactory to the Town Board.

C. Purpose. The final plat and the supporting documents for a proposed subdivision constitute the complete development of the subdivision proposal. After a public hearing, as required, and approval by the Town Board, this complete submission along with the performance bond and the general liability insurance policy, as approved by the Town Board, becomes the basis for the construction of the subdivision and the inspection services by the Town Board and by the Town Engineer or other delegated Town official or representative.

D. Number of copies. The application for approval of the final plat, complete with eight copies of the final plat, shall be filed with the Clerk of the Planning Board.

E. Approval procedure.

- (1) Upon receipt of the final plat application by the Town Clerk or Clerk of the Planning Board, the application shall be placed on the next available Town Board agenda.

- § 123-9
- (2) At the Town Board meeting, the Town Board shall review the application, provide input to the applicant, and refer the application to the Planning Board for their review, comment, and recommendation. § 123-9
- (3) The application will then be placed on the next available Planning Board meeting agenda.
- (4) The Planning Board, within 31 days of receipt of the referred action, shall, by resolution, either recommend to approve, with or without conditions, or recommend to disapprove such final plat.
- (5) If recommend for approval, the application shall then be considered complete, and the Town Board, at their next meeting, shall decide if a public hearing is required or not. (If the final plat is in substantial conformance with the preliminary plat, then a public hearing may not be required.) If a public hearing is required, a public hearing shall be held within 62 days of the complete application.
- (6) If a public hearing is required, a notice of public hearing shall be advertised at least once in a newspaper of general circulation in the Town of Elma at least five days before such hearings.
- (7) Within 62 days from the date of such public hearing (or referral by the Planning Board if no public hearing is held), the Town Board shall act by resolution on the final plat. The Town Board shall either approve, with or without conditions, or disapprove the final plat.
- (a) Notwithstanding the foregoing provisions, the time in which the Town Board must take action may be extended by mutual consent of the applicant and the Town Board.
- (8) Upon signature of all parties, the subdivision plat shall be filed by the applicant in the office of the County Clerk. Any major subdivision plat not so filed or recorded within 60 days of the date upon which such plat is approved or considered approved by reason of failure of the Town Board to act shall become null and void.
- (9) If conditional approval is granted, the Town Board shall empower a duly authorized person or persons to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five days of the resolution granting conditional approval, the plat shall be so certified by the Clerk of the Planning Board (or Town Clerk) as conditionally approved and a copy filed in his office, and a certified copy mailed to the subdivider shall include a statement of requirements which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Town Board may, however, extend the time within which a conditionally approved plat may be submitted for signature if, in its opinion such extension is warranted, for a period not to exceed two additional periods of 90 days each.
- F. Filing. Upon completion of the requirements in this section and those in §§ 123-11 and 123-12 of Article V and notation to that effect upon the subdivision plat, the subdivision plat shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Town Board upon receipt of notification that the required bond and insurance has had the approval of the Town Attorney. The final plat may then be filed by the applicant in the office of the Erie County Clerk. Town Board approval of a final plat shall not be deemed an acceptance by the Town of any street or other land shown as offered for cession to public use.
- G. Expiration of approval.
- (1) The final approval of a final plat or the certificate of the Town Clerk as to the failure of the Town Board to act within the time required by law shall expire within 60 days after the date of the Town Board resolution authorizing the duly designated officer of the Town Board to sign the drawings, or from the date the certificate is issued unless filing of the plat or a section thereof is accomplished within that time period in the office of the Erie County Clerk in accordance with § 278 of the Town Law.
- (2) Expiration of an approval shall mean that any further action shall require payment of a new filing fee, as

§ 123-9 well as Town Board review of all previous findings. On and after such expiration of plat approval, any § 123-9
formal offers of cession submitted by the subdivider shall be deemed to be invalid, void and of no effect.

- H. Filing in sections. At the time the Town Board grants plat approval, it may permit the plat to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the plat. In accordance with § 276 of the Town Law, the applicant may file a section of the approved plat with the County Clerk. In these circumstances, plat approval on the remaining sections of the plat shall continue in effect for a period of three years from the filing date of the first section. When a plat is filed by section with the County Clerk, the applicant shall, within 30 days, file with the Town Clerk the entire approved preliminary plat. The subdivider shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the County Clerk and the required improvements have been installed and approved in such section or a bond covering the cost of such improvements has been posted.

ARTICLE V
Public Improvements

§ 123-10.1. Compliance required.

Any subdivider who proposes to develop a subdivision in the Town of Elma shall comply with the provisions of this article regarding the posting of bonds and the construction of utilities and other improvements.

§ 123-11. Required public improvements; design and installation standards; inspections.

In making determinations regarding the necessity and extent of the installation of public improvements, the Planning Board shall take into consideration the prospective character, density and uses in the proposed subdivision, whether residential, commercial or industrial.

- A. Required improvements. The Planning Board may require the installation of public improvements, including but not limited to the following public improvements, in accordance with Town Law:
- (1) Parks, playgrounds or other public open spaces of adequate size and location for recreational purposes.
 - (2) Paved streets and highways.
 - (3) Street signs and poles.
 - (4) Sidewalks.
 - (5) Streetlighting.
 - (6) Curbs and gutters.
 - (7) Street trees.
 - (8) Water mains and fire hydrants.
 - (9) Sanitary sewage disposal.
 - (10) Storm drainage system.
 - (11) Seeding or sodding of planting strips with lawn areas.
 - (12) Monuments suitably placed and installed.
- B. Standards for installation. All improvements as required by the Planning Board shall be installed in accordance with standards, specifications and procedures acceptable to the appropriate Town departments, as well as those provided in these regulations.
- C. Modifications of design of improvements. If, any time before or during construction of the required improvements, it is demonstrated to the designated Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the designated Town Engineer may, upon concurrence of a previously delegated member of the Planning Board, authorize minor modifications which are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any of the improvements required by the Planning Board. The designated Town Engineer shall issue any such authorization under this provision in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.
- D. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board, in writing, of the time when he proposes to commence construction of such improvements, so that the Town Board may cause such inspection to be made to assure that all Town specifications and

§ 123-11 requirements shall be made during the construction of required improvements and to assure the satisfactory completion of improvements and utilities as required by the Planning Board. § 123-12

- E. Proper installation of improvements. If the designated Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, the Building Inspector and the Planning Board. The Town Board shall then notify the subdivider and, if necessary, the bonding company and shall take all necessary steps to preserve the Town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

§ 123-12. Performance bonds.

A performance bond or equivalent security shall be delivered to the Town to guarantee thereby to the Town that the subdivider shall faithfully cause to be constructed and completed within a reasonable time the required public improvements, and convey the required lands and improvements, where applicable, to the Town free and clear of all encumbrances.

- A. Procedure. Before the Planning Board grants final approval of the final subdivision plat, the subdivider shall follow the procedure set forth in either Subsection A(1) or (2) herein:
- (1) In an amount set by the Planning Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements, or the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of § 277 of the Town Law and, further, shall be satisfactory to the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety. A period of one year or such other period as the Planning Board may determine appropriate, not exceeding three years, shall be set forth in the bond within which the required improvements must be completed. If the Planning Board shall decide, at any time during the term of the performance bond, that the extent of the building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance bond, or that the required improvements have been installed as provided in this article and by the Planning Board in a sufficient amount to warrant reduction in the face amount of said bond, or that the character and extent of such development requires additional improvements previously waived for a period stated at the time of fixing the original terms of such bond, the Planning Board may modify its requirements for any or all such improvements, and the face value of such performance bond shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board, and any security deposited with the bond may be reduced or increased proportionately.
 - (2) The subdivider shall complete all required improvements to the satisfaction of the designated Town Engineer who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the designated Town Engineer. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety.
- B. As-built drawing required. No required improvements shall be considered to be completed until the installation of the improvements has been approved by the designated Town Engineer and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to provisions of Subsection A(2) above, then said map shall be submitted prior to endorsement of the plat by the authorized Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in Subsection A(1) above, such bond or certified check shall not be released until

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such map is submitted.

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- C. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board, in writing, of the time when he proposes to commence construction of such improvements so that the Town Board may cause such inspection to be made during the construction of required improvements and to assure the satisfactory completion of improvements and utilities as required by the Planning Board.
- D. Proper installation of improvements. If the designated Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, the Building Inspector and the Planning Board. The Town Board shall then notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the Town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

§ 123-13. Maintenance bonds.

The subdivider shall file with the Town Board a maintenance bond in an amount based on a maximum of 10% of the performance bond estimate and which shall be adequate to assure the satisfactory condition of the initial public improvements for a period of one year following completion and acceptance, where applicable, by the Town Board. Such bond shall be satisfactory to the Town Attorney as to form, manner or execution and surety and in an amount satisfactory to the designated Town Engineer.

§ 123-14. General liability insurance.

- A. Filing requirement. The subdivider shall file with the Town Attorney a general liability insurance policy at the same time he files his performance bond. The Town Board shall approve the policy as to form. The policy shall be in force during the term of the performance bond and shall be extended in conformance with any extension of the performance bond.
- B. Limits of coverage. The policy shall insure the Town, and the subdivider and shall cover all the operations in the development involving existence and maintenance of property and buildings and contracting operations of every nature involving all public improvements. Said policy shall have limits of liability of \$500,000 for bodily injury to each person and \$1,000,000 liability on the aggregate for each accident, and property damage liability of \$25,000 for each accident and \$50,000 aggregate property damage liability or such higher limits as the Planning Board may require. Said limits may be changed from time to time by resolution of the Town Board.

§ 123-15. Public utilities.

- A. When public utilities are to be installed, the subdivider shall submit to the Planning Board written assurances from each public utility company that such company will make the necessary service installations within a time limit and according to specifications satisfactory to the Planning Board.
- B. The final plat shall show statements by the owner granting all necessary easements or other releases where required for the installation of public utilities.

ARTICLE VI

General Requirements and Design Standards**[Amended 10-16-1991; 12-18-1996; 4-15-2015 by L.L. No. 2-2015; 6-14-2017 by L.L. No. 3-2017]****§ 123-16. General requirements.**

The subdivider shall observe all general requirements for land subdivision as herein provided.

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and with a minimum of detrimental effects on the environment.
- B. Preservation of natural features. The Planning Board may require the preservation of all natural features which add value to residential developments and to the community, such as large trees or wooded areas, watercourses, historic spots and similar irreplaceable assets.
- C. Conformance with Official Map and Master Plan. Subdivision plats and improvements provided shall conform to the Official Map and Zoning Ordinance⁵ of the Town of Elma and shall be in harmony with the Town Master Plan.
- D. Minimum lot. No lot area in a subdivision shall be less than the minimum required by the Zoning Ordinance for the district in which it is located, unless otherwise provided in the Zoning Ordinance or as provided within Article VIII of this chapter. The Planning Board shall be authorized to designate a lesser frontage than required by the Zoning Ordinance for the district in which it is located, provided that the Planning Board may not reduce said frontage of an approved lot to less than 90% of the frontage minimum required in said district. A full lot on a cul-de-sac shall be a minimum of 90 feet road frontage.
- E. Plats with access through other municipalities. Whenever access to a subdivision is by crossing land in another municipality, the Planning Board may require certificates from authorities having appropriate jurisdiction that such access is adequately improved or that a legally adequate performance bond has been duly posted and is sufficient in amount to assure the construction of the necessary road or roads.
- F. Replatting. Replatting of all or part of the land covered by an existing plat which has been laid out prior to compulsory filing shall comply with these regulations as now required.
- G. Preservation of topsoil. No topsoil shall be removed from any subdivision in the Town. In the case where there are areas over which heavy equipment will be operated, the topsoil may be stripped and piled on the property. When final grades have been completed, the entire property shall be suitably graded and recovered with topsoil to a depth of at least four inches after rolling, except that portion covered by buildings or included in the roads.
- H. Watercourses. Where a watercourse separates a proposed street from abutting property, provisions shall be made for access to all lots by culverts or other permanent structures. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way not less than 30 feet in width. All such structures and rights-of-way shall be of design and specification approved by the designated Town Engineer and the Town Highway Superintendent.
- I. Flood hazard.
 - (1) If any portion of the land within the subdivision is subject to periodic inundation or flood hazard caused by stormwater, this portion shall be clearly indicated on any subdivisions required by these regulations. In cases of doubt, the Planning Board may require submission of a flood hazard study delineating the limits of the one-hundred-year floodplain. Such study shall be conducted by a licensed professional

5. Editor's Note: See Ch. 144, Zoning.

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engineer.

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- (2) Lands subject to flooding and land deemed by the Planning Board to be otherwise uninhabitable shall not be platted for residential occupancy nor for any such other use that may increase danger to health, life or property, or aggravate the flood hazard.
- (3) Any subdivision, including all proposed improvements and construction, must comply with all applicable provisions of the National Flood Insurance Act of 1968, including all amendments thereto.

§ 123-17. Design standards.

The subdivider shall conform to all subdivision design standards as herein provided. These standards shall be considered minimum standards and shall be varied from or waived only as provided for in Article IX of this chapter.

A. Lots.

- (1) Lots to be buildable. The lot arrangement shall be such that, in constructing a building in compliance with the Zoning Ordinance,⁶ there will be no foreseeable difficulties for reasons of topography or other natural conditions.
- (2) Deep lots. Lots shall not be of unreasonable depth, but, if such depth is unavoidable, provisions should be made whenever possible in the layout of the subdivision for streets which may be added later through resubdivision to serve the development of the rear portion of such deep lots.
- (3) Corner lots. Corner lots shall be of sufficient dimensions so that any structure placed thereon shall conform to the building setback line on both streets, as well as side yard requirements, for the zoning district in which the lot is located.
- (4) Double-frontage lots. Lots whose front and rear lot lines abut two separate and approximately parallel streets should be avoided except in residential areas abutting major arteries. In such cases, a planting screen easement at least 10 feet wide with no right of access to the lot shall extend along the lot line abutting the major artery right-of-way.
- (5) Minimum lot size. Each lot shall be no smaller than the minimum size required by the Zoning Ordinance for the district in which it is located. The minimum lot width, measured at the point where the property line meets the road right-of-way line, must be the minimum lot width required by the Zoning Ordinance for the district in which it is located, unless extreme hardship is demonstrated, in which case the Planning Board shall have discretion to reduce said minimum in accordance with § 123-16D.
- (6) Side yard lines. All side yard lines of lots shall be substantially at right angles to straight street lines and radial to curved street lines.
- (7) Driveway access. Whenever possible, lots shall be laid out so that driveways have access to a street which is intended to carry out the least traffic. Driveway grades between the street pavement and the building setback line shall not exceed 10%.
- (8) Access from public streets.
 - (a) The subdividing of land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street for construction within the subdivision.
 - (b) Double-frontage and reverse-frontage lots should be avoided. Reverse-frontage lots, which have their rear yard abutting a collector or major street, shall be provided with effective natural screening along the full width of the rear property line to screen the rear yard from adjacent traffic.

6. Editor's Note: See Ch. 144, Zoning.

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- (c) A lot of less than 200 feet frontage fronting on a county or state highway may be designed as to share a common curb cut with an adjacent lot, if either adjacent lot has not been previously granted a curb-cut permit. When more than three lots are proposed to be subdivided from a parcel with frontage on a county or state highway, or there is a possibility of creating four or more lots equal in size to the average area of the lots proposed for subdivision, frontage for all such lots shall be on internal streets, not on the county or state highway. Each lot permitted to front on a county or state highway shall provide for an improved on-site turnaround so as to obviate the necessity of any vehicle backing onto such highway.
- (9) Access from private streets. Access to a subdivision from private streets, as provided under § 280-a of the Town Law, shall be deemed acceptable only if such private streets are designed and improved in accordance with Subsection B of this section and if said private streets are transferred to the Town and accepted by the Town Engineer and Highway Superintendent prior to or at the same time as final acceptance of the subdivision itself.
- (10) Block design. Each block shall normally be designed to provide two rows of lots, but irregularly shaped blocks indented by cul-de-sac streets and which contain interior parks will be acceptable when properly designed and if the maintenance of such interior parks is provided for in covenants and agreements acceptable to the Planning Board.

B. Streets.

- (1) General objectives. Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Town Master Plan and to accommodate the prospective traffic and afford access for firefighting, snow removal and other road maintenance equipment. The arrangement of streets shall be coordinated such that they compose a convenient system, cause no undue hardship to adjoining properties and render no property inaccessible from an existing public street or from a proposed street in a subdivision for which a completion bond has been posted.
- (2) Arrangement.
 - (a) The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided, by use of stub streets in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services, such as sewer, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.
 - (b) The subdivision street traffic network shall provide an orderly local access progression from marginal streets to collector street to main highways and shall include a continuous network of public pedestrian walks, either independent or incorporated within vehicular rights-of-way, to connect all properties and public areas.
- (3) Street widths.⁷
- (4) Pavement, drains and culverts. All pavement, gutters, drains, culverts and other street improvements required by the Planning Board shall conform to Town specifications, which are available in the Town Clerk's office.
- (5) Marginal access streets. Where the proposed subdivision contains or is adjacent to an existing or proposed major arterial street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in nonaccess reservation along the rear property line or such other

7. Editor's Note: See Town Design Standards on file in the Town Clerk's office.

- § 123-17 treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. § 123-17
- (6) Local streets. Local streets shall be laid out in a manner to discourage their use by through traffic. Local and collector street openings onto a major artery shall normally be at least 500 feet apart.
 - (7) Street connections. Subdivisions containing 50 lots or more shall have at least two connections with existing public streets, with streets shown on the Official Map, if such exists, or streets on an approved subdivision plat for which a bond has been filed.
 - (8) Grades and curves. Grades of all streets shall conform to the general terrain and shall be no less than 1/2 of 1% nor more than 7%. Where a grade of 1/2 of 1% cannot be achieved, reduction may be considered if both street curves and a smooth-wearing surface are provided.
 - (9) Street trees. At least two street trees, having a minimum one-and-one-half-inch caliper trunk and an eight-foot height, shall be planted on each lot.
- C. Parks and public open space. Adequate land for parks and other public open space purposes shall be provided in any subdivision of five or more lots throughout the Town of Elma.
- (1) Amount of land dedicated.
 - (a) In general, the Planning Board may require that not less than one acre of park and public open space land per 20 dwelling units be shown on the plat. However, in no case shall the amount required be more than 10% of the total area of the subdivision.
 - (b) The minimum area of contiguous public open space acceptable for this use may be one acre. A smaller open space may be approved by the Planning Board if the difference in area between the space offered and the one-acre minimum may be provided by future subdivision of adjacent land. All lands designated on the plat as park or open space area shall be subject to such conditions as the Planning Board may establish on the subdivision concerning access, use and maintenance of such lands as deemed necessary to assure the preservation of the land, in perpetuity, for their intended purposes. Such conditions shall be clearly noted on the plat prior to plat approval and recording.
 - (2) Information to be submitted. In the event that an area to be used for park or public open space is required to be shown, the subdivider shall submit, prior to final approval, to the Planning Board drawings at a scale of not less than 20 feet to the inch of such area and the following features thereof:
 - (a) The boundaries of said area, giving lengths and bearings of all straight lines, radii, lengths, central angles and tangent distances of all curves.
 - (b) Existing features, such as streams, ponds, clusters of trees, rock outcrops and structures.
 - (c) Existing and, if applicable, proposed changes in grade and contours of said area and of the area immediately adjacent.
 - (d) Plans for improvements of said area, not limited to grading, seeding, fencing, landscaping and the provisions for play and related equipment.
 - (3) Payment in lieu of dedication. In cases where, because of size, topography or location of the subdivision, the requirement for land dedication or reservation for parks and public open spaces would be unreasonable or undesirable, the Planning Board may alternately require, under § 277 of the Town Law, that a payment be made into a special fund for Town recreation site acquisition and improvement in lieu of such land dedication. Such payment shall be a condition of approval of the plat and be in the sum of \$250 per proposed dwelling unit in the project or such sum as may be set by resolution of the Town

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Board from time to time. No plat shall be signed by the authorized officer of the Planning Board until such payment is made.

D. Public improvements and utilities. See Detail AA.⁸

- (1) Placement. Underground public improvements required by the Planning Board in accordance with Article V § 123-11, and public utilities shall be placed in the street rights-of-way between the street paving and the sidewalk, if one exists, or between the street paving and right-of-way line. Where topography makes such placement impractical, perpetual unobstructed easements at least 15 feet in width shall be provided for along lot frontages abutting the street lines, with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block, and their layout shall be as regular as possible. Subject to the discretion of the Town Board, an underground public improvement or utility operated for revenue by the Town or by a special district may be installed by the Town in a private street, provided that a public easement of satisfactory size is obtained for such improvement or utility. Before the street is paved, the subdivider shall install underground service connections for all required public improvements to the property line of each lot within the subdivision.
- (2) Water.
 - (a) The subdivider shall connect to the closest existing watermain to his subdivision. No subdivision shall be approved unless plans demonstrate the availability of a water supply of a dependable quantity adequate for all domestic purposes, and meet all considerations of fire protection requirements. All Health Department requirements must be adhered to as per the Pure Waters Act⁹ and recommended standards for waterworks of the State of New York Health Department. Only materials approved and accepted by the American Water Works Association can be used in construction of the watermain.
 - (b) The subdivider shall perform all requirements at his own expense.
- (3) Sanitary sewers.
 - (a) Where an appropriate public sanitary sewer system is reasonably accessible, the subdivider shall install at his expense the necessary connections into the system and provide a sewer connection for each lot.
- (4) Septic tank systems. Where an appropriate sanitary sewer system is not reasonably accessible but where the plans for the sanitary sewer district, including lands on which the subdivision is located, have been prepared, the subdivider, at his expense, in addition to installing sanitary sewers in conformity with those plans for eventual connection with a trunk sewer, shall provide private septic tank systems which shall conform to the requirements of the Erie County Health Department and of all other authorities having jurisdiction. The Planning Board shall ascertain that such lots shall be of sufficient size to provide adequate leaching fields for satisfactory performance of the system.
- (5) Storm and drainage sewer system.
 - (a) The subdivider shall install all necessary storm drainage sewers and appurtenant facilities at his expense, in accordance with standards of the Town and of all authorities having jurisdiction. Where an appropriate storm drainage system is reasonably accessible, the subdivider shall make proper connection thereto, otherwise the subdivider shall provide appropriate means and methods for stormwater runoff satisfactory to the Planning Board and all other authorities having jurisdiction. Any such means and methods for stormwater runoff shall comply with any SWPPP approved by the Town for the subdivision.

8. Editor's Note: Detail AA is in the Town highway specifications, which are on file in the Town Clerk's office and may be inspected during regular business hours.

9. Editor's Note: See the Pure Waters Bond Act, NY Uncon Laws § 7371 et seq.
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- (b) Where storm sewers are provided, the storm sewers shall generally be installed 12 feet from the right-of-way line on the same side of the street as the water main. Size is to be determined in consultation with the designated Town Engineer and Highway Superintendent.
- (c) The drainage system shall be large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside of the subdivision. The designated Town Engineer shall approve the design and the size of the facilities based on anticipated runoff from a twenty-year storm under conditions of total potential development permitted by the Zoning Ordinance¹⁰ in the watershed.
- (d) The subdivider's engineer shall also study and report on the effect of each subdivision on the existing downstream drainage system outside the area of the subdivision, and this report shall be reviewed by the designated Town Engineer. When it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a twenty-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the plat until provision has been made for the improvement of said condition.
- (e) Subdivisions shall be designed and constructed in accordance with any SWPPP approved by the Town.

E. Pedestrianways.

- (1) Sidewalks on collector roads. All streets which may be designated as collector roads may be required to have a five-foot-wide sidewalk on both sides of the street. All such sidewalks shall be so placed that there will be a distance of three feet between the sidewalk and the street paving and a distance of four feet between the inner edge of the sidewalk and the right-of-way line. Planting of street trees will be permitted in the space between the sidewalk and the right-of-way only.
- (2) Sidewalks on local streets. All local streets may be required to provide a sidewalk on one or both sides of the street at the discretion of the Planning Board. Such sidewalk shall be located as follows:
 - (a) When a sidewalk is to be provided along only one side of a local street, the street paving shall be offset from the right-of-way center line by eight feet. The sidewalks shall be five feet in width and so placed that there will be a distance of three feet between the sidewalk and the right-of-way line. Planting of street trees will be permitted in the space between the sidewalk and the right-of-way only.
 - (b) When sidewalks are to be constructed along both sides of a local street, the paving shall be centered within the right-of-way. Each sidewalk shall be five feet in width and so placed that there will be a distance of three feet between the sidewalk and the street paving and a distance of four feet between the inner edge of the sidewalk and the right-of-way line. Planting of street trees will be permitted in the space between the sidewalk and the right-of-way only.

10. Editor's Note: See Ch. 144, Zoning.

ARTICLE VII
Submission Requirements

§ 123-17.1. Submission of plats and documents for approval.

Any subdivider who proposes to develop a subdivision in the Town of Elma shall submit plats and other documents for approval as provided in this article.

§ 123-18. Minor subdivision plat.

In the case of a minor subdivision only, the subdivision plat application shall include the following information:

- A. An area map showing the location of that portion of the tract which is to be subdivided in relation to the entire tract, and showing the distance to the nearest street intersection. The drawing of the entire tract may be by either deed plot or actual survey.
- B. An actual field survey of the boundary lines of the tract being subdivided, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Planning Board, and shall be referenced and shown on the plat. The Planning Board may modify the requirement for a full field survey pursuant to Article VIII, § 123-24, of these regulations.
- C. Information concerning portions of the land within the subdivision subject to periodic inundation by stormwater or in a wetlands area.
- D. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- E. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of and be under the permit of the Erie County Department of Health. Evidence of contact with the Health Department shall be available.
- F. The proposed subdivision name, Town of Elma, Erie County, New York.
- G. The date, North point, map scale, name and address of record owner and subdivider.
- H. A description in metes and bounds of a drainage district covering the entire subdivision for use by the Town Attorney.
- I. A SWPPP, if required for the proposed subdivision under Chapter 120 of this Code, together with the recommendation of the SMO to approve, approve with modifications, or disapprove the SWPPP pursuant to § 120-4B of this Code. **[Added 4-15-2015 by L.L. No. 2-2015]**

§ 123-19. Major subdivision preapplication.

The preapplication sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some similarly accurate base map at a scale of not less than 200 feet to one inch. The entire sketch plan shall be shown on one sheet. The sketch plan may show the following information according to the Planning Board:

- A. A vicinity map showing the location of that portion of the tract which is to be subdivided in relation to the entire tract and the distance to the nearest street intersection. All streets shall also be shown within 300 feet of the applicant's property.
- B. All existing structures, wooded areas, streams and other significant physical features, within the portion to be subdivided and within 200 feet thereof. If topographic contours are significant, contours shall also be indicated at intervals of not more than 10 feet. All elevations are to be referred to United States Geological Survey datum with the location and description of bench marks included.

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- C. A general statement of soils conditions.
- D. The name of the owner and of all adjoining property owners as disclosed by the most recent Town assessment records. Property owners across the street shall also be shown.
- E. The Tax Map sheet, block and lot numbers, as available from the Town Assessor's office.
- F. All the utilities available and all streets which are either proposed, mapped or built.
- G. The proposed pattern and numbers of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area.
- H. Information on all existing restrictions on the use of land, including easements, covenants or zoning district boundaries.
- I. All portions of the land within the subdivision subject to periodic inundation or flooding by stormwater, including wetland areas.

§ 123-20. Major subdivision preliminary plat.

- A. Six copies of the preliminary plat certified to by a licensed land surveyor and/or professional engineer at a scale of not more than 100 but preferably not less than 50 feet to one inch shall be submitted at least 10 days prior to the regular meeting of the Planning Board.
- B. The preliminary plat shall show or be accompanied by the following additional information: **[Amended 4-15-2015 by L.L. No. 2-2015]**
- (1) Information on existing site conditions, required:
 - (a) An actual field survey of the boundary lines of the tract to be subdivided, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Planning Board and shall be referenced and shown on the plat.
 - (b) Street rights-of-way and widening of rights-of-way on the subdivision and within 200 feet of its boundaries, including the name and right-of-way width and location; type, width and elevation of surfacing; any legally established center-line elevations, including those at intersections and other critical points; and walks, gutters, curbs, culverts and related improvements.
 - (c) The location, width, identification, purpose and restrictions upon any other rights-of-way and easements on the subdivision.
 - (d) Drainage structures on the subdivision and within 200 feet of its boundaries, including the type of structure and location, invert elevations, gradients, types and sizes of all pipes and all other drainage structures where applicable, including direction of flow.
 - (e) The location and size or capacity of all other utility structures, such as sewer, water, gas mains and power lines on the subdivision, and within 200 feet of its boundaries.
 - (f) As contours affect proposed public improvements, ground elevations on the tract shall be based on a datum plane approved by the designated Town Engineer. For land with a slope that is less than approximately 2%, spot elevations should be shown at all breaks in grade, along all drainage channels or swales and at selected points not more than 100 feet apart in all directions; and for land that slopes more than 2%, contours should be shown at intervals of not more than two feet.
 - (g) Marshes, ponds, streams and all land subject to periodic or inundation flooding or similar unstable

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conditions on the subdivision or within 200 feet of its boundaries. Indicated shall be the location and area covered indicating the apparent high-water line on the date of survey, the survey date and the maximum depth of the water at critical points.

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(2) Existing site conditions, at the discretion of the Planning Board:

- (a) Subsurface data in accordance with Erie County Health Department requirements, including the date, location and graphic representation of findings for all test holes, including the location and results of percolation and other tests to ascertain subsurface soil, rock and groundwater conditions, and the depth of groundwater unless pits are dry at a depth of five feet.
- (b) Photographs which include camera locations, directions of views and key numbers.
- (c) The location of rock outcrops, wooded areas, isolated preservable trees, structures and other significant existing features for the proposed subdivision area and within 200 feet thereof.
- (d) The soil map and report by the Soil Conservation Service.

(3) Proposed site development, required:

(a) Streets.

- [1] The name, to be checked prior to submission with the Town Clerk to avoid duplication.
- [2] The width and location of any streets or public ways or places shown on the Official Map, within the area to be subdivided, together with street profiles of all streets or public ways proposed by the developer.
- [3] The right-of-way width.
- [4] Tentative center-line elevations at intersections and at principal changes in gradient.
- [5] The tentative center-line gradient shown in percent of slope.
- [6] Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains and the size and type thereof, the character, width and depth of pavements and subbase and the location of manholes, basins and underground conduits.
- [7] Preliminary designs of any bridges which may be required.

(b) Lot layout.

- [1] Lot lines and dimensions scaled to the nearest foot.
- [2] The minimum building setback lines and dimensions and the suggested location of buildings and driveways.
- [3] Lot numbers and lot areas measured to the nearest square foot.

(c) Easements, parks, restricted areas and other improvements:

- [1] The purpose and restrictions.
- [2] The designation of areas of rights-of-way, which are to be offered for public dedication or deeded to homeowners' associations or other private corporations with clear indication of proposed changes in grades and landscaping thereon. The Board may require special recreational improvements and planting of trees, shrubs, grass and other landscaping in all areas to be so dedicated.

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(d) Preliminary stormwater drainage system plan:

- [1] Drainage structures shall be shown on the preliminary plat indicating the approximate location and size of proposed lines and culverts and their profiles, including connection to existing storm systems or alternate means of disposal.
- [2] Outline of watersheds tributary to drainage structures and their approximate area in acres, including those which extend beyond the boundaries of the subdivision.

(e) Preliminary water supply and sewage treatment systems: the approximate location, size and profiles of all proposed waterlines, valves, hydrants and sewer lines and fire alarm boxes. Connection to existing lines or sewage disposal and treatment shall be as provided in the Public Health Law.

(f) Private septic systems: a map showing the exact location of percolation test holes, bore holes and the location of proposed tile fields shall be shown on each lot on the subdivision map.

(g) Easements. Where the topography is such as to make difficult the inclusion of any of the required facilities and improvements within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property.

(h) Covenants or deed restrictions: a copy of all such covenants or deed restrictions as are intended to cover all or part of the tract.

(i) Temporary markers. The Planning Board may require the location of temporary markers adequate to enable the Planning Board to locate readily and appraise the basic layout in the field, including markers at the corners of the tract. Unless the subdivision is adjacent to an existing street intersection, the distance along a street from one corner of the property to the nearest existing street intersection shall be shown.

(4) Stormwater management information:

(a) A SWPPP, if required for the proposed subdivision under Chapter 120 of this Code; and

(b) The recommendation of the SMO to approve, approve with modifications, or disapprove the SWPPP pursuant to § 120-4B of this Code.

§ 123-21. Major subdivision final plat.

A. Ten paper copies and five linen or Mylar copies of the final plat, certified by a licensed land surveyor and/or professional engineer at a scale of not more than 100 but preferably not less than 50 feet to one inch, shall be submitted at least 10 days prior to the regular meeting of the Planning Board.

B. The final plat shall show or be accompanied by the following information: **[Amended 4-15-2015 by L.L. No. 2-2015]**

(1) The lot map of the entire subdivision, which shall be the same as that required on the preliminary plat with the following additions:

(a) Lot layout.

[1] The number identification by a suitable system of consecutive numbers circled and related to the Town Tax Maps.

[2] Lot lines with accurate dimensions to the nearest 1/10 of a foot and bearing to the nearest five seconds.

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[3] The minimum building setback lines dimensioned.

(b) Special parcels.

[1] A description of proposed action and use, including a note wherever an offer of dedication is being made. For any land which is reserved by the developer or to a homeowners' association, there shall be submitted with the subdivision plat copies of agreements showing the manner in which such areas are to be maintained and the provisions made therefor.

[2] Boundary lines with accurate dimensions to the nearest 1/10 of a foot and bearings to the nearest five seconds.

[3] Lot areas for each lot measured accurately to the nearest square foot.

(2) Survey data.

(a) Accurate tract boundary lines with bearings and distances.

(b) A survey tie-in with accurate bearings and distances to the nearest established street monuments or other official monuments, which are within reasonable distance of the property. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Planning Board, their location noted and referenced upon the plat.

(c) Special district boundaries as they affect the subdivision, referenced to the subdivision survey by accurate bearings and distances.

(d) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.

(e) Accurate dimensions to the nearest 1/10 of a foot.

(f) Monuments.

[1] The accurate location of all monuments, existing, proposed or to be reset, shall be shown.

[2] Monuments shall be of a type approved by the Planning Board and shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines, points of curve and such intermediate points as may be required. Monuments shall be located at the beginning and end of each curve along one side of the street right-of-way.

(3) Public improvement plan and profiles:

(a) The performance bond and required inspections, based on these drawings, the final plat itself, these subdivision regulations and other applicable Town specifications for such public improvements and utilities.

(b) Unless a specific waiver requested and granted in writing, the public improvements and utilities to be considered to comply specifically with these subdivision regulations and the other applicable Town specifications for such public improvements and utilities.

(c) Basic drawing layout requirements, the same as those required for the preliminary plat and also to include rights-of-way, gradients and directional arrows downhill.

(d) Designs for waterlines, sewers, streets, bridges and drainage structures, prepared by a licensed professional engineer.

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- (e) Complete drainage systems for the entire subdivision, with appropriate development staging for each of the final plat sections, shown graphically and related to all existing drainage features.
 - (f) Utility system requirements:
 - [1] Water supply and distribution:
 - [a] The location of the source on the property or where piped in and the size of the supply main.
 - [b] The location and size of all distribution mains.
 - [c] The location of fire hydrants.
 - [d] The location of control valves.
 - [2] Sanitary waste disposal systems.
 - [a] Sanitary sewer system design to be indicated in all cases where public or private sewer connections exist or are proposed.
 - [b] A typical lot layout, indicating the location of individual systems, where appropriate, with reference to house and water supply, and a detailed drawing of a proposed sanitary waste disposal system.
 - [c] Individual private septic systems, including the tile fields, to be located on each individual lot.
 - [3] The location of electric, telephone, cable television, gas and other energy-related lines.
 - [4] The location and description of outdoor lighting.
 - (g) Profile drawing requirements:
 - [1] Drawings prepared with a horizontal scale of one inch equals 50 feet and a vertical scale of one inch equals 10 feet, unless otherwise approved by the Planning Board.
 - [2] All profiles showing the existing natural grades, the typical cross section of existing or proposed roads, the center-lines of intersecting roads and a system of survey stations.
 - [3] The center-line profile of all proposed roads with dimensions on vertical curves and notations as to gradient and critical elevations.
 - [4] Detailed plans for bridges, culverts or similar structures.
 - [5] The invert profile and location of all storm and sanitary drainage structures (manholes, catch basins, etc.) in street rights-of-way, drainage or other easements.
 - (h) Recreation and community improvements.
 - (i) Landscape plans prepared by a licensed landscape architect and/or an architect indicating proposed changes in existing grades and landscaping, including the following items: play areas, walkways, incidental shelters, lighting, walls, new trees, shrubs (location, caliper and botanical name) and other required improvements.
- (4) Certifications.
- (a) Adequate proof of the title showing that the applicant is the owner.

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- (b) Written offers of cession to the Town for public streets, public improvements, rights-of-way and open spaces shown on the subdivision plat and copies of agreements or other documents showing the manner in which open spaces, the title of which is reserved by the subdivider, are to be maintained. All offers of cessions and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
 - (c) A certificate by the designated Town Engineer certifying that the subdivider has complied with one or both of the following alternatives:
 - [1] All or part of the improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Board granting approval of the preliminary plat.
 - [2] A performance bond or equivalent security in sufficient amount to assure completion of all required improvements has been filed with the Town Clerk.
 - (d) Protected covenants and other appropriate devices in form for recording.
 - (e) Notification of various organizations:
 - [1] The applicant shall apply, in writing, to the following organizations and to any other organizations as directed by the Planning Board for:
 - [a] Letters directed to the Chairman of the Planning Board and signed by a responsible official or any governmental authority or district which must provide necessary utility service, approving the utility installation design and assuring that adequate service will be available to accommodate the needs of the subdivision.
 - [b] Letters directed to the Chairman of the Planning Board signed by a responsible official of the school system acknowledging the number of proposed residential lots and indicating the availability of existing school facilities for the prospective new pupils, or any needed new school sites and facilities that relate to the subdivision area.
 - [c] Letters directed to the Chairman of the Planning Board signed by a responsible official of the local Fire Department acknowledging the number of residential lots.
 - [d] Letters, in appropriate cases, directed to the Chairman of the Planning Board signed by a responsible official of the State Department of Transportation or the Erie County Highway Engineer approving proposed construction and access on state or county rights-of-way, respectively.
 - [2] In any of the above instances, if no response is received within 30 days of the applicant's request, the Planning Board may require proof that notification was made and shall inquire of the organization as to its intent. If no written response is received by the Planning Board from said organization, 15 days thereafter, this requirement is deemed waived.
 - (f) Certification that the applicant has provided the Town Attorney with a metes and bounds description of a proposed drainage district covering the subdivision and has applied to the Town Board for approval thereof.
 - (g) The Town Engineer, Water Superintendent and Highway Superintendent will provide a written report on their final review and recommendations to the Planning Board for each of their respective areas of expertise.
- (5) Stormwater pollution prevention plan:
- (a) A SWPPP, if required for the proposed subdivision under Chapter 120 of this Code; and

- § 123-21 (b) The recommendation of the SMO to approve, approve with modifications, or disapprove the SWPPP pursuant to § 120-4B of this Code. § 123-21

ARTICLE VIII Clustering

§ 123-22. Procedure and standards.

Whereas, pursuant to a resolution of the Town Board, the Planning Board is empowered to modify applicable provisions of the Zoning Ordinance¹¹ in accordance with the provisions of § 281 of the Town Law for the purpose of enabling and encouraging the flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands, the following shall be the procedure and standards for clustering:

- A. Request by subdivider. A subdivider may request the use of § 281 simultaneously with or subsequent to the presentation of the sketch plans as per procedure described in Article IV. Any submission subsequent to approval of a preliminary plat shall require a reapplication for sketch plat review.
- B. Sketch plan. A subdivider shall present, along with a proposal in accordance with the provisions of § 281 of the Town Law, a standard sketch plan which is consistent with all the criteria established by these Subdivision Regulations, including but not limited to streets and other improvements being consistent with the Town requirements and lots being fully consistent with the Zoning Ordinance.¹²
- C. Lands for park, recreation, open space or other municipal purposes. If the application of this procedure results in a plat sketch showing land available for park, recreation, open space or other municipal purposes directly related to the plan, then conditions as to ownership, use and maintenance of such lands are necessary to assure the preservation of such lands for their intended purposes and shall be set forth upon discussion with the Planning Board.
- D. Plat submission. Upon determination that such sketch plan is suitable for the procedures under § 281 of the Town Law and the subsequent resolution by the Planning Board authorizing the subdivider to proceed a preliminary plat meeting, all of the requirements of the resolution shall be presented to the Planning Board, and thereafter the Planning Board shall proceed with the required public hearings and all other requirements of these regulations.
- E. Filing; notation on Zoning Map. On the filing of a final plat in the office of the County Clerk in which § 281 of the Town Law has been used, the subdivider shall file a copy with the Town Clerk who shall make appropriate notations and reference thereto on the Town Zoning Map.¹³ The Secretary of the Planning Board shall notify the Building Inspector when such a plat is filed.

11. Editor's Note: See Ch. 144, Zoning.

12. Editor's Note: See Ch. 144, Zoning.

13. Editor's Note: The Zoning Map is on file in the Town Clerk's office and may be inspected during regular business hours.

ARTICLE IX
Waivers, Modifications and Review

§ 123-23. Waiver of specific improvements.

The Town Board may waive, by specific resolution, subject to the appropriate conditions and guaranties, for such period as it may determine, the requirements of these regulations relative to the provisions and design of any or all required public improvements which, in its judgment or the special circumstances of a particular plat or plats, are not requisite to the interests of the public health, safety and general welfare of the Town, or are not appropriate because of the inadequacy or lack of connecting facilities adjacent to or in the proximity of the proposed subdivision.

§ 123-24. Modification of specific requirements.

Where the Town Board finds that compliance with these regulations would cause unusual hardship or extraordinary difficulties because of exceptional and unique conditions of topography, access, location, shape, size, drainage or other physical features of the site, the minimum requirements of these regulations may be modified by specific resolution of the Planning Board to mitigate the hardship, provided that the public interest is protected and the development is in keeping with the general spirit and intent of these and other Town regulations.

§ 123-25. Review of Town or Planning Board decisions.

Any officer, department, board or bureau of the Town, with the specific approval of the Town Board, or any person or persons jointly or severally aggrieved by any decision of the Planning Board concerning a plat decision, may bring a proceeding to review such decision in the manner provided by Article 78 of the Civil Practice Law and Rules in a Court of Record on the ground that such decision is illegal in whole or part. Such proceeding must be commenced within 30 days after the filing of the decision in the office of the Town Clerk. Commencement of such proceeding shall stay all further proceedings upon the decision appealed from.

ARTICLE X
Signing of Plats

§ 123-26. Authorization.

The appropriate officers authorized to sign approved subdivision plats under the Town Law are the Chairman and the Clerk of the Planning Board or, in their absence, the Acting Chairman and the Acting Clerk. In addition, the Town Supervisor and Town Clerk are authorized cosigners under the Real Property Law.

ARTICLE XI
Plat Modifications

§ 123-27. Changes to require resubmission of plat.

No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless said plat is first resubmitted to the Planning Board and such Board approves, in writing, any such modifications. In the event that any subdivision plat is recorded without complying with these requirements, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

ARTICLE XII
Conflicts With Other Laws

§ 123-28. Conflicts with other laws.

Should these regulations conflict with or otherwise be inconsistent with any provision of any regulation of the Town of Elma, the more stringent provisions shall apply.

ARTICLE XIII
Severability

§ 123-29. Severability.

Should any section or provision of these requirements contained herein or as amended, or the application thereof to any person or circumstance hereinafter, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of these regulations as a whole or any part thereof, other than the part so declared to be invalid. The Planning Board hereby declares that it would have enacted these regulations or the remainder thereof, and the Town Board declares that it would have approved the same, even if the invalidity of such section or provisions or its application had been apparent.

